

Michael A. McGill, SBN 231613
mmcgill@adamsferrone.com
ADAMS, FERRONE & FERRONE
4333 Park Terrace Drive, Suite 200
Westlake Village, California 91361
Telephone: (805) 373-5900
Facsimile: (818) 874-1382

Attorneys for Plaintiffs,
KEITH FREEMAN, ET AL.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

KEITH FREEMAN, BRYAN
GABOURY, ANTHONY HUACUJA,
JOSEPH MEYERS, and DOUG
WEISCHEDEL,

Plaintiffs,

vs.

CITY OF WEST COVINA, and DOES 1
THROUGH 10, inclusive,

Defendants.

Case No.: 2:17-cv-3738

**COMPLAINT FOR DAMAGES
AND INJUNCTIVE AND
DECLARATORY RELIEF
ALLEGING VIOLATIONS OF
THE FAIR LABOR STANDARDS
ACT (29 U.S.C. §§ 201 et seq.)**

DEMAND FOR JURY TRIAL

JURISDICTION

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343(3), as the controversy arises under “the Constitution, laws or treaties of the United States.” Specifically, the claim arises under the Fair Labor Standard Act of 1938, 29 U.S.C. §§ 201 et seq. (“FLSA”).

VENUE

2. Venue is proper in the Central District of California pursuant to 28 U.S.C. §1391(b) because the acts, events, or omissions giving rise to the claim occurred in this District.

PARTIES

3. Plaintiffs Keith Freeman, Bryan Gaboury, Anthony Huacuja, Joseph Meyers, and Doug Weischedel are each United States citizens and are currently employed by the Defendant City of West Covina.

4. Defendant City of West Covina (City) is a political subdivision of the State of California. Defendant is, and at all relevant times was, the employer of Plaintiffs. Defendant is an employer whose employees are engaged in commerce within the meaning of 29 U.S.C. §207(a) and as defined in 29 U.S.C. §§ 203(d) and 203(e)(2)(c).

COLLECTIVE ACTION ALLEGATION UNDER THE FLSA

5. Plaintiffs' herein file this action on behalf of themselves and on behalf of all other similarly situated persons currently or formerly employed by the City of West Covina to recover unpaid overtime compensation, liquidated damages and/or any other recovery authorized under the FLSA and such supplemental claims as they may have.

CLAIM FOR RELIEF

6. Paragraphs 1 through 5 are incorporated herein.

7. Defendants have willfully violated, and are willfully violating, the compensation requirements of the FLSA, 29 U.S.C. Section 207, by employing Plaintiffs, and all other similarly situated employees, for weeks longer than the applicable maximum weekly hours established by Section 207 of the FLSA, without properly compensating them for work performed in excess of the above described hours at rates not less than one and one-half times their regular rates of pay. Such violations include pre-shift and post-shift donning and doffing that is

1 required, integral and an indispensable part of the principle activities of the work
2 performed. The violation of law has already been judicially established as of May
3 5, 2009, in the case of James Nolan, et al. v. City of Los Angeles, U.S. District
4 Court Case No.: 03-2190 GAF. Plaintiffs are non-exempt rank and file employees
5 who are regularly suffered or permitted to work in excess of the applicable
6 overtime threshold every work period, but do not receive compensation for all such
7 time worked at the rate of one and one-half times their regular rate of pay from
8 Defendant.

9 8. Defendant has acknowledged this mistake, but has refused to fully
10 correct the matter. Not only is Defendant not paying for all hours worked above
11 the overtime threshold, but based upon information and belief, Defendant does not
12 include all forms of compensation in its calculation of the Plaintiffs' regular rate of
13 pay, all in violation of 29 U.S.C. Section 207.

14 9. Plaintiffs must be paid compensation for overtime work pursuant to
15 the provisions of Section 7 of the Fair Labor Standards Act, 29 U.S.C. § 207, et
16 seq. ("FLSA"), and regulations of the United States Department of Labor, and state
17 and local law, but they were not so paid.

18 10. Plaintiffs have informed Defendant that the complained of policies
19 and practices violate FLSA overtime provisions. However, Defendant has refused
20 to alter said policies and practices. In fact, Defendant has refused to provide any
21 meaningful response explaining its rationale and/or defense to said illegal
22 practices. Rather, Defendant has maintained the illegal practice.

23 11. Defendant knew or should have known of its obligation to pay
24 overtime compensation to Plaintiffs but nevertheless failed to honor that
25 obligation.

26 12. Defendant acted voluntarily and deliberately in maintaining an
27 intentional practice of failing to compensate Plaintiffs in accordance with the
28 FLSA.

1 4. Any and all other relief, including equitable relief, as the Court may
2 deem just and proper.

3
4 Respectfully submitted,

5 Date: May 17, 2017

ADAMS, FERRONE & FERRONE

6
7 _____
 /s/ - Michael A. McGill

8 Michael A. McGill, Esq.

9 Attorneys for Plaintiffs,

10 KEITH FREEMAN, ET AL.

11 **DEMAND FOR JURY TRIAL**

12 Plaintiffs hereby demand a jury trial under F.R. Civ. P., Rule 38 and E.D.

13 Local Rule 201.

14 Respectfully submitted,

15 Date: May 17, 2017

ADAMS, FERRONE & FERRONE

16
17 _____
 /s/ - Michael A. McGill

18 Michael A. McGill, Esq.

19 Attorneys for Plaintiffs,

20 KEITH FREEMAN, ET AL.